

2001 Legislation  
Public Utilities Commission-4  
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**An Act to Clarify Marketing Standards for Telephone Utilities and  
Competitive Electricity Providers**

**Be it enacted by the People of the State of Maine as follows:**

**Sec. 1. 35-A M.R.S.A. § 3203 (4)** is amended to read:

**4. Consumer protection provisions.** As a condition of licensing, and notwithstanding any other provisions of law, a competitive electricity provider that provides or proposes to provide generation service to a residential consumer or to a small commercial consumer:

- A. May not terminate generation service without at least 30-day prior notice to the consumer;
- B. Must offer service to the consumer for a minimum period of 30 days;
- C. Must allow the consumer to rescind selection of the competitive electricity provider orally or in writing within 5 days of initial selection;
- D. May not telemarket services to the consumer if the consumer has filed with the commission a written request not to receive telemarketing from competitive electricity providers;
- E. Must provide to the consumer within 30 days of contracting for retail service a disclosure of information provided to the commission pursuant to rules adopted under subsection 3 in a standard written format established by the commission; and
- F. Must comply with any other applicable standards or requirements adopted by the commission by rule or order.

For purposes of this subsection, "residential consumer" means a consumer defined as residential under the terms and conditions of the consumer's transmission and distribution utility. For purposes of this subsection, "small commercial consumer" means, in the case of a consumer served by an investor-owned transmission and distribution utility, a nonresidential consumer that meets the availability criteria to take service under a core customer class of the transmission and distribution utility that does not pay a demand charge to the transmission and distribution utility or, in the case of a consumer served by a consumer-owned transmission and distribution utility, a nonresidential consumer with a demand of 20 kilowatts or less.

A competitive electricity provider that is licensed pursuant to subsection 1 is governed by the provisions of this subsection and any rules adopted by the commission pursuant to subsection 6 and is not subject to Title 32, Chapter 69, Subchapter V or Title 32, §4690-A(4) to the extent the competitive electricity provider is providing or proposing to provide generation service.

**Sec. 2. 35-A M.R.S.A. § 7106 (1)** is amended to read:

**§7106. Consumer protection**

An initiation of a change in a customer's local or intrastate interexchange carrier is governed by this section and any rules adopted by the commission pursuant to this section and is not subject to the provisions of Title 32, Chapter 69, Subchapter V or Title 32, §4690-A(4).

**1. Unauthorized change of carrier.** This subsection governs the initiation of a change in a customer's local or intrastate interexchange carrier that is not authorized by that consumer. Notwithstanding any other provisions of law:

A. Except as otherwise provided by the commission by rule adopted pursuant to subsection 3, no local or intrastate interexchange carrier may initiate the change of a customer's local or intrastate carrier unless the change is verified by one of the following methods:

- (1) Written authorization from the customer;
- (2) Toll-free electronic authorization placed from the telephone number that is the subject of the change order; or
- (3) Oral authorization obtained by an independent 3rd party.

B. When a customer's service is changed to a new local or intrastate interexchange carrier, the new local or intrastate interexchange carrier shall maintain for 12 months a record of nonpublic customer-specific information that establishes that the customer authorized the change. [1997, c. 702, §1 (new).]

C. If a local or intrastate interexchange carrier initiates a change that is not made or verified consistent with this section or commission rules adopted under this section, that carrier, upon request by the customer, shall reverse the change within a time period established by commission rule. [1997, c. 702, §1 (new).]

D. A local or intrastate interexchange carrier that has initiated an unauthorized customer change shall:

- (1) Pay all usual and customary charges associated with returning the customer to the customer's original local or intrastate interexchange carrier;
- (2) Return to the customer any amount paid to that carrier by the customer or on the customer's behalf;

(3) Pay any access charges and related charges to access providers or to an underlying carrier when applicable; and

(4) Upon request, provide all billing records to the original local or intrastate interexchange carrier from which the customer was changed to enable the original local or intrastate interexchange carrier to comply with this section and any commission rules adopted under this section.

E. Except as otherwise provided by the commission by rule in accordance with subsection 3, a customer subjected to an unauthorized change of local or intrastate interexchange carrier is responsible for charges of the authorized carrier for the customer's usage during the period the customer was served by the unauthorized carrier unless:

(1) The customer has paid the unauthorized carrier for the usage; and

(2) The amount paid by the customer has not been returned by the unauthorized carrier to the customer in accordance with paragraph D, subparagraph (2).

If the unauthorized carrier has not returned to the customer the amount paid by the customer to the unauthorized carrier in accordance with paragraph D, subparagraph (2), the unauthorized carrier shall pay to the authorized carrier the charges of the authorized carrier for the customer's usage during the period the customer was served by the unauthorized carrier.

### **SUMMARY**

This legislation clarifies that provisions regarding consumer protection when consumer solicitation sales occur, that are contained in Chapter 35-A or in rules promulgated by the Public Utilities Commission, are the governing directives for telephone utilities that are regulated by the Public Utilities Commission and competitive electricity providers that are licensed by the Public Utilities Commission.